



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2401

DARYL L. OSBY
FIRE CHIEF
FORESTER & FIRE WARDEN

August 07, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**AUTHORIZE THE CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY
TO ENTER INTO A LABOR-MANAGEMENT WORKERS' COMPENSATION DISPUTE
RESOLUTION AGREEMENT WITH THE LOS ANGELES COUNTY INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS, LOCAL 1014
(ALL DISTRICTS) (3-VOTES)**

SUBJECT

The Consolidated Fire Protection District of Los Angeles County (District) is requesting approval to enter into a Labor-Management Workers' Compensation, Dispute Resolution Agreement (Agreement) between the District and the Los Angeles County International Association of Firefighters, Local 1014 (Local 1014) to provide active employees claiming compensable injuries with an expedited procedure to resolve medical disputes and to facilitate their prompt return to work.

**IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE
CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY:**

1. Authorize the Fire Chief to enter into the Agreement (Attachment), between the District and Local 1014.
2. Delegate authority to the Fire Chief, or his designee, to execute all future amendments, modifications, extensions, and augmentations that are associated with the administration and management of this Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

38 August 7, 2012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

The District is requesting authority to enter into the Agreement. The Agreement will provide active employees who are claiming compensable injuries, with an expedited procedure to resolve medical disputes and to facilitate their prompt return to work.

With Senate Bill (SB) 983 (1993), the California Legislature established the "Construction Carve-Out Program" under Labor Code section 3201.5. In doing so, it permitted employers, groups of employers, and employee organizations involved in the construction industry to use collective bargaining as a way to create alternatives to the traditional workers' compensation dispute resolution process.

The passage of SB 228 (2003) amended Labor Code section 3201.7 to allow non-construction employers, groups of employers, and employee organizations to also participate in carve-out programs.

The Agreement will provide employees with an expedited procedure to resolve disputes, facilitate prompt return to work, and reduce the number and severity of disputes between the District and employees. The Agreement will also provide workers' compensation coverage in a way that improves labor-management relations and organizational effectiveness, expedites and enhances medical treatment to employees, and expedites benefit delivery.

The potential benefits for the employee are a reduction of lost work days stemming from workers' compensation claims, prompt and appropriate medical care, safe and prompt return to work, improved productivity and morale among all employees, and an overall increase in satisfaction with the return to work process.

The potential benefits for the District are a reduction of lost work days stemming from workers' compensation claims, reduction of workers' compensation costs, increased health of injured employees, and improved morale among employees.

The District views this Agreement as a relatively risk free mechanism to try and create more efficient and effective return to work and disability management programs.

Implementation of Strategic Plan Goals

Approval of the recommended action is consistent with the Los Angeles County Strategic Plan Goal No. 1, Organizational Effectiveness which guides us to "maximize the effectiveness of the process, structure, and operations to support timely delivery of customer-orientated and efficient public service."

FISCAL IMPACT/FINANCING

The District expends millions of dollars annually through the current workers' compensation process. One of the main goals of this Agreement is to reduce programmatic costs. There is no impact on net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

As an alternative to the workers' compensation system, under Labor Code section 3201.7, the District and a certified bargaining unit may establish an alternative dispute resolution process through a collective bargaining process and agreement. Application to implement this process must

be approved by the State and the process must be completed within the permitted timeframe. Approval has been obtained, and the collective bargaining process to negotiate an agreement has been completed within the required timeframe.

ENVIRONMENTAL DOCUMENTATION

This project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 16031(b)(3) of the CEQA Guidelines as it addresses incidental matters related to the provision of Fire District services and thus it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

CONTRACTING PROCESS

The District has submitted an application with the State Division of Workers' Compensation (DWC) to open negotiations for this Agreement and to implement the program. The District currently has an application for recognition of the Agreement with the State DWC office. This recognition is pending approval from your Board.

The Chief Executive Office's Risk Management Division, County Counsel, Local 1014, and the District believe we have developed an Agreement for a successful Carve-Out model to be implemented. This Agreement should benefit both parties while serving represented members in a far more streamlined process than is currently being used. All parties anticipate that once the program has had an opportunity to be implemented and the results evaluated, it will prove successful and surely be a model program to be copied.

The District is working with County Counsel to develop the contracts for the medical providers who will be utilized through this Agreement.

Continued communication and collaboration between the District and Local 1014 with the support of the Labor-Management Committee, will be the keys to success that will drive this program forward.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended actions will enhance the abilities of District to provide an efficient and effective workers' compensation return to work program that will benefit the District, the employees, and the citizens of Los Angeles County.

CONCLUSION

Upon approval by your Honorable Board, please electronically submit a Statement of Proceedings to the following:

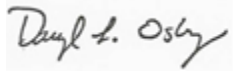
Consolidated Fire Protection District of Los Angeles County
Executive Office – Emergency Operations
Chief Deputy Michael T. Metro
mmetro@fire.lacounty.gov

The Honorable Board of Supervisors

8/7/2012

Page 4

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Daryl L. Osby", is written over a light gray rectangular background.

DARYL L. OSBY

FIRE CHIEF, FORESTER & FIRE WARDEN

DLO:jc

Enclosures

c: Chief Executive Office
County Counsel
Auditor-Controller

LABOR-MANAGEMENT WORKERS' COMPENSATION
DISPUTE RESOLUTION AGREEMENT
BETWEEN COUNTY OF LOS ANGELES AND
LOS ANGELES COUNTY INTERNATIONAL ASSOCIATION OF FIREFIGHTERS

THIS LABOR-MANAGEMENT WORKERS' COMPENSATION DISPUTE RESOLUTION AGREEMENT ("Agreement") is entered into by and between the County of Los Angeles ("County") and the Los Angeles County Firefighters, Local 1014, AFL-CIO, ("Local 1014"), inclusive of all employees represented thereby. This Agreement is created pursuant to California Labor Code Section 3201.7(a)(3)(c).

Nothing in this Agreement diminishes the entitlement of an employee to compensation payments for total or partial disability, temporary disability, or medical treatment fully paid by the employer as otherwise provided in Division 4 of the Labor Code. Nothing in this Agreement denies to any employee the right to representation by counsel at all stages during the alternative dispute resolution process.

RECITALS

The County and Local 1014 hereby enter into this Labor-Management Workers' Compensation Dispute Resolution Agreement as follows:

Article I. Purpose.

The purposes of this Agreement are:

1. To provide active employees claiming compensable injuries under Division 4 of the California Labor Code ("Workers' Compensation Law") with an expedited procedure to resolve medical disputes in accordance with Article IV, Section D of this Agreement, and to facilitate their prompt return to work;

2. To provide retirees claiming a presumptive injury as defined by California Labor Code (hereinafter "Labor Code") Section 3212 et seq., with an expedited procedure to resolve medical disputes in accordance with Article IV, Section D of this Agreement;

3. To reduce the number and severity of disputes between the County and covered employees, when those disputes relate to workers' compensation; and

4. To provide workers' compensation coverage in a way that, including but not limited to, improves labor management relations and organizational effectiveness, expedites and enhances medical treatment to employees, expedites benefit delivery, and reduces costs to the County.

These purposes will be achieved by utilizing an exclusive list of medical providers to be the sole and exclusive source of medical evaluations for disputed issues surrounding covered employees in accordance with Labor Code Section 3201.7(c).

Now, therefore, in consideration of the mutual terms, covenants and conditions herein, the parties agree as follows:

Article II. Term of Agreement.

The County and Local 1014 enter into this Agreement with the understanding that the law authorizing this Agreement is new, untested and evolving. The parties further understand that this Agreement governs a pilot program and that it will become effective after it is executed by the parties, submitted to the Administrative Director of the State of California, Department of Industrial Relations, Division of Workers' Compensation in accordance with Title 8, California Code of Regulations, Section 10202(d), and accepted by the Administrative Director as evidenced by the Director's letter to the parties indicating approval of the Agreement. This Agreement shall be in effect for one year from the date of the Administrative Director's letter of acceptance to the parties. Thirty (30) calendar days before the end date of the first year, each party shall have the opportunity to request to meet regarding mutually agreeable issues. Thereafter, it shall continue and remain in force from year to year unless terminated by either party. Upon termination of this Agreement, any claim arising from an industrial injury covered

by the Agreement shall be governed by the laws of California. Any medical issue resolved under this Agreement shall be final and binding.

The parties reserve the right to terminate this Agreement at any time for good cause, by mutual agreement or by act of the legislature. The terminating party must give thirty (30) calendar days written notice to the other party. The parties agree to meet and consult in good faith to try and resolve the issues underlying the termination during the thirty day period prior to the termination of the Agreement. Upon termination of this Agreement, the parties shall become fully subject to the provisions of the California law to the same extent as they were prior to the implementation of this Agreement, except as otherwise specified herein.

Article III. Scope of Agreement.

A. This Agreement applies only to injuries, as defined by Workers' Compensation Law, claimed by 1) in-service employees; 2) retirees who, while in-service employees, made a claim alleging injury or illness; 3) retirees who, while in-service, made a report, consistent with Department policy, of an industrial incident that may lead to injury or illness; and 4) retirees, who were in-service employees on or after the effective date of this Agreement, and claim a new presumptive injury as defined by Labor Code Section 3212 et seq. This Agreement does not cover post-retirement amendments to claims filed prior to the term of the Agreement. This Agreement does not apply to any other retired employees. Under current law, this Agreement does not apply to dependents, but may be changed to cover same to reflect a change in statutory or decisional law.

B. For claims filed by in-service employees and opened within sixty (60) calendar days prior to the effective date of this Agreement, this Agreement shall apply if a QME examination or AME examination has not been scheduled.

C. This Agreement is restricted to establishing an exclusive list of medical providers to be used for medical dispute resolution for the above-covered employees in accordance with Labor Code Section 3201.7(c).

D. In the event that an employee is erroneously made subject to or is erroneously excluded from the provisions of this Agreement, the parties will mutually agree on the corrective action to either include the employee or exclude the employee as appropriate.

Article IV. Medical Provider.

A. This Agreement does not constitute a Medical Provider Network ("MPN"). However, all employees must utilize the County's current MPN for treatment purposes during the time the County maintains and utilizes the MPN. The MPN is governed by Labor Code Sections 4616 et seq. Physicians who act as a covered employee's independent medical examiner ("IME") under this Agreement shall not act as the same employee's treating physician even if the physician has been pre-designated as the employee's treating physician, unless otherwise mutually agreed by the parties. Pre-designation of a physician must comply with the requirements set forth in Labor Code Section 4600(d)(1).

B. All employees with a disputed medical issue as described below in Section D must be evaluated by an approved physician from the exclusive list of approved medical providers. Said physician will serve as an IME. Attached hereto as Exhibit A is an exclusive list of approved medical providers that was agreed upon by the County and the Local 1014. If the IME needs the opinion of a different specialist, the IME shall refer the employee to a physician of the IME's choice even if that doctor is not on the approved list or in the MPN.

C. The exclusive list of approved medical providers shall include the specialties as agreed upon by the parties.

D. This Agreement does not replace the Utilization Review (UR) provisions of California law and the existing process in the County of Los Angeles. Disputes that are being resolved pursuant to Labor Code Sections 4610 and 4062 would be governed under this Agreement. An IME shall be used for all medical disputes that arise in connection with a workers' compensation claim including causation, nature and extent of permanent disability, ability to work, utilization review decisions pursuant to Article IV, Section E (below), and any other medical determination currently resolved by a qualified medical evaluator (QME) or agreed medical evaluator (AME). The parties will use the originally chosen IME for all

subsequent disputes under this Agreement. In the event that said IME is no longer available, then the parties shall utilize the next specialist on the list pursuant to Article IV, Section G.4 (below).

The IME process will be triggered when either party gives the other written notice of a dispute. Notice of a dispute by the County will be sent to the employee with a copy to the employee's legal representative if represented and a copy to Local 1014. Notice of a dispute by the employee or employee's legal representative will be sent to the employee's designated Third Party Administrator, and the County's legal representative if represented

Notice of a dispute will be sent within thirty (30) calendar days of receipt of a medical report or a utilization review decision. A letter delaying decision of the claim automatically creates a dispute. A subsequent acceptance of the claim and/or resolution of the dispute issue eliminates the need for completion of the dispute resolution process set forth in this Agreement.

E. Prior to the use of an IME for a medical dispute arising in connection with a utilization review decision, the employee, any representative of the employee, and the County shall facilitate the exchange of any and all information needed to resolve the dispute, up to and including peer-to-peer communication.. Once the treating physician has responded to the UR denial or modification and, UR continues to object to the treatment recommendations, the employee may request an evaluation by an IME physician as described in Article IV, Sections B – D.

Decisions regarding those medical treatments identified in Labor Code Sections 4062 (b) and 4610 (g) (2) shall be made by a physician identified in this Agreement to serve as an IME but shall be managed within the time frames specified in those regulations.

F. The parties agree that a Labor-Management Committee ("LMC") shall be established to address issues of interpretation in the implementation of this Agreement; selecting and reviewing IME panel(s) physicians; and other mutually agreeable issues. This committee shall be comprised of three (3) members of management and three (3) members of labor as selected by the Local 1014 president.

G. Appointments.

1. The designated TPA shall make appointment(s) with the IME within ten (10) business days of the date of the dispute and/or notification of delay for employees covered under this Agreement. The notice of the appointment location, date and time will be sent to the employee, to his legal representative, if there is one, and to the union representative.

2. Compensation for medical appointments under this Agreement shall be consistent with County policy.

3. Mileage reimbursement to covered employees shall be consistent with County policy and in accordance with Labor Code Section 4600 (e)(2) unless transportation is provided by the County.

4. For purposes of appointments, the TPA will select the IMEs by starting with the first name from the exclusive list, as defined by LMC, of approved medical providers within the pertinent specialty, and continuing down the list, in order, until the list is exhausted, at which time the TPA will resume using the first name on the list.

H. The County is not liable for the cost of any medical examination used to resolve the parties' disputes governed by this Agreement where said examination is furnished by a medical provider that is not authorized by this Agreement. Medical evaluations cannot be obtained outside of this Agreement for disputes covered by this Agreement.

I. Both parties shall be bound by the opinions and recommendations of the IME selected in accordance with the terms of this Agreement. A notice of the results of the examination will be sent to the employee, or to his legal representative, if there is one.

J. Either party who receives records prepared or maintained by the treating physician(s) or records, that are relevant to the determination of the medical issue will serve those records on the other party immediately upon receipt. There can be no dispute regarding the providing of medical records to the IME. As to nonmedical records, if one party objects to the provision of any nonmedical records to the IME, the party will object within ten (10) business days of the service of the records. A dispute regarding the provision of nonmedical records may

result in the denial of the claim on the basis that the IME did not have a complete and accurate history.

K. The County will provide to the IME records prepared or maintained by the employee's treating physician(s) and medical and nonmedical records relevant to the determination of the medical issue. The County will serve a copy of the listing of all records provided to the IME to the employee or his representative.

L. All communications with the IME shall be in writing and shall be served on the opposing party. This provision does not apply to oral or written communications by the employee in the course of the examination or at the request of the evaluator in connection with the examination, or at the request of the parties seeking report, compensability or disability status.

M. Ex parte communication with the IME is prohibited. If a party communicates with the IME in violation of subdivision L, the aggrieved party may elect to terminate the medical evaluation and seek a new evaluation from the next IME chosen from the list pursuant to provision G.4. If a new examination is required, the party making the communication prohibited by this section shall be liable for the cost of the initial medical evaluation.

Article V. Discovery

A. Employees covered by this Agreement shall provide the TPA with fully executed medical, employment and financial releases and any other documents reasonably necessary for the County to resolve the employee's claims, when requested.

B. The parties agree they have met on the language of the medical/financial/employment releases to be used under this Agreement. If said releases cause undue delay and/or unforeseen adverse impact(s) to the County and/or the Local 1014 and/or its members, then either party may request a meet and consult regarding said undue delay and/or adverse impact(s). The parties shall meet within thirty (30) calendar days of a party's request to meet.

C. Employees shall provide within ten (10) business days all information necessary to make a timely decision as defined by statute. Failure to timely provide necessary information may result in the denial of the claim.

D. This Agreement does not preclude a formal deposition of the applicant or the physician when necessary. Attorney's fees shall be covered by applicable law.

Article VI. General Provisions.

A. This Agreement constitutes the entire understanding of the parties and supersedes all other agreements, oral or written, with respect to the subject matter in this Agreement.

B. This Agreement shall be governed and construed pursuant to the laws of the State of California.

C. This Agreement, including all attachments and exhibits, shall not be amended, nor any provisions waived, except in writing signed by the parties which expressly refers to this Agreement.

D. If any portion of this Agreement is found to be unenforceable or illegal the remaining portions shall remain in full force and effect.

E. Notice required under this Agreement shall be provided to the parties as follows:

County: Los Angeles County Fire Department
Return to Work Section Manager
1320 N. Eastern Avenue
Los Angeles, CA 90063

Local 1014: Local 1014 President
3460 Fletcher Avenue
El Monte, CA 91731

F. In the event that there is any legal proceeding between the parties to enforce or interpret this Agreement or to protect or establish any rights or remedies hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorney's fees.

3/5, 2012⁽²⁰⁾
2011

LOS ANGELES COUNTY FIREFIGHTERS,
LOCAL 1014

By Dave Gillette
President, Fire Fighters, Local 1014

"Local 1014"

MARCH 09, 2012⁽²⁰⁾
2011

COUNTY OF LOS ANGELES
FIRE DEPARTMENT

By Daryl L. By

"COUNTY"

This Agreement is approved as to form on 12/20, 2012⁽²⁰⁾
2011.

ANDREA S. ORDIN, County Counsel

By DR
Deputy